TELLS THE FACTS AND NAMES THE NAMES

CounterPunch

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Freedom in Bush Time

By Alexander Cockburn

If there's one thing defenders of civil liberties know, it's surely that assaults on constitutional freedoms are bipartisan. Just as constitutional darkness didn't suddenly fall with the arrival in the Oval Office of George Bush Jr., darkness will not dissipate with his departure and the entry of President Barack Obama.

There's no more eager and self-righteous hand reaching out to the Bill of Rights to drop it in the shredder than that of a liberal intent on legislating freedom. As illustration, simply take "freedom from hate," expressed in the great liberal drive to criminalize expressions of hate and to impose fierce punitive enhancements if the criminal had been imprudent enough to perpetrate verbal breaches of sexual or ethnic etiquette while bludgeoning his victim to death.

For years, I have reminded my left and liberal friends of a juror's constitutional right to set the law aside and issue a verdict consonant with the dictates of conscience. Each time, I sadly rediscover that most liberals mistrust juries and have no interest in an institution, which is the ultimate bedrock protector of liberty. In the wake of the O.J. Simpson verdict, I recall Michael Lind calling for the abolition of the jury as "a barbaric Viking relic." There was no hum of disapproval for this disgusting sentiment. Liberal judges are often the most eager to downsize juries from 12 and to eliminate their role in an ever-increasing spread of categories, often appealing to the *ultima ratio* of "efficiency" in administration of the justice system. This steady push to erode the role of the jury has continued steadily through every administration.

Growing up in Ireland and Britain, I gazed with envy at the United States,

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Dams, Genocide and Reparations in Guatemala

By Barbara Rose Johnston

As I turn on my computer, each day I am greeted by my desktop photo – a singular image of a skull, other bones blurred in a background of dirt, a tattered shirt and a bit of boot in the margins. The jaw and teeth are grinning into the dirt, and the back of head is clearly in view. A bullet hole is prominently figured. Number 15, reads the marker, planted adjacent to the skull. For years now, this desktop image has haunted me.

The photo was taken by the Belgian ethnologist Bert Janssens in the fall of 2001, as he documented the exhumation of a mass grave in the hills above Río Negro, a village now drowned beneath the reservoir created by the Chixoy Dam. He sent it to me as part of a massive collection of images that I used to illustrate a five-volume study written to clarify – for the government of Guatemala, the World Bank and other international financiers, and the Guatemalan people – the many varied legacies of this internationally financed dam (*The Chixoy Dam Legacy Issues Study*, www.centerforpoliticalecology.org/chixoy.html).

Built in a time of civil war, the Chixoy Dam forced residents of Rio Negro and nearby villages to leave their homes and ancestral lands at gunpoint, and their protests were met with violence and massacre. Residents of other villages, coerced into civilian militia duties, wielded those guns and machetes. Guatemalan soldiers, serving as security on the dam site, directed their actions. The public utility, INDE, paid the salary of those soldiers with money loaned by the World Bank.

This particular image was part of Bert Janssens' "Xococ" series, a poignant set of photographs documenting the exhumation process: relatives watching, working, digging, and forensic archeologists carefully recording the sad findings: a trench littered with shoes, clothing, the tattered remains of life and the grizzly evidence of the death of 107 children and 70 women. I keep it on my desktop as a way of insuring that this life and the questions behind this death do not get pushed aside. Who was this person? What were the events that led to this death and those of the many others whose remains lie in the same mass murder grave? What sort of life has resulted for those who survived?

Over a million Guatemalans were displaced during the nation's internal conflict and, according to 2006 estimates, somewhere between 400,000 and 600,000 people were killed in a campaign of state-sponsored violence against a largely Mayan population. In 1999, the United Nations-sponsored Commission on Historical Clarification (CEH) reported the findings from exhumations, forensic analysis, and witness testimony: some 83 per cent of the 42,275 named victims were Mayan civilians, 93 per cent of the atrocities committed during the conflict had been the work of the armed forces, and, as evidenced by a number of exemplary cases, massacres were the result of a policy of state-sponsored violence on a Mayan civilian population. The government of Guatemala and its military dictators were responsible for acts of genocide and other crimes against humanity.

One of the Mayan massacres investigated by the CEH is the case of Río Negro, a village that now lies under the reservoir created by the Chixoy Dam. Built in the late 1970s and early 1980s with Inter-American Development Bank and World Bank financing, designs were

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with its constitutional protections and its Bill of Rights, contrasting with the vast ad hoc tapestry of Britain's repressive laws and "emergency" statutes piled up through the centuries, as successive regimes from the Plantagenet and Tudor periods forward went about the state's business of enforcing the enclosures, hanging or transporting strikers, criminalizing disrespectful speech and, of course, abolishing the right to carry even something so innocuous as a penknife. Instructed by centuries of British occupation, my native Ireland, I have to say, took a slightly more relaxed attitude. My father once asked an Irish minister of justice, back in the 1960s, about the prodigious size and detail of the Irish statute book. "Ah, Claud," said the minister equably, "our laws are mainly for guidance."

We are thankfully near the exit door from the Bush years, after enduring appalling assaults on freedom, built on the sound foundation of kindred assaults in Clinton time – perhaps most memorably expressed in the screams of parents and children fried by U.S. government forces in the Branch Davidian compound in Waco, and in Bill Clinton's flouting of all constitutional "war powers" inhibitions on his executive decision to wage war and order his commanders to rain bombs on the civilian population of the former Yugoslavia.

Of course, Bush forged resolutely along the path, blazed by Clinton in asserting uninhibited executive power in the ability to wage war, seize, confine and torture at will, breaching constitutional laws and international treaties and covenants, concerning treatment of combatants. The Patriot Act took bits of the Justice Department's wish list, left over from Clinton's Antiterrorism and Effective Death Penalty Act of 1996, which trashed *habeas corpus* protections.

The outrages perpetrated on habeas corpus have been innumerable, some of them relatively unpublicized. Take the case of people convicted of sexual felonies, such as molestation of children. Convicted and imprisoned, they reach the end of their stipulated terms and then find that they now face continued imprisonment without any specified terminus, under the rubric of "civil confinement," as fierce as any *letter de cachet* in France's *ancien regimé*.

We are thankfully near the exit door from the Bush years, after enduring appalling assaults on freedom, built on the sound foundation of kindred assaults in Clinton time.

Free speech is no longer a right. Stand alongside the route of a presidential cavalcade with a humble protest sign, and the Secret Service or local law enforcement will hale you off to some remote cage, labeled "Designated protest area." Seek to exercise your right to dispense money for a campaign advertisement or to support a candidate, and you will at once fall under the sanction of McCain/Feingold, otherwise known as the Bipartisan Campaign Reform Act of 2002.

In the case of public expressions of protest, we may expect particular diligence by the Secret Service and other agencies in the Obama years; while, perhaps, Obama's reneging of a campaign promise to accept only public financing has stopped campaign finance reform in its tracks. Liberals, joyously eyeing Obama's amazing $150 million haul in his final weeks, have preserved a tactful silence on this topic, after years of squawking about the power of the corporate dollar to pollute democracy's proceedings.

Worse than in the darkest days of the Fifties, when Americans could have their passports revoked by fiat of the State Department, citizens and legal residents no longer have the right to travel freely even inside the nation's borders. Appearance on any of the innumerable watch lists, maintained by government agencies, means inability to get on a plane and probably even Amtrak, whose unmolested passengers already stand risk of being stranded *sine die* in some remote siding in the southwestern deserts for weeks on end.

Americans no longer have the right to vote, even if of appropriate age. The Indiana statute okayed by the Supreme Court requires, under Indiana's voter ID law, that persons lacking "proper" ID can only make a provisional vote, with a bureaucratic apparatus of subsequent verification. In some states, anyone carrying a felony conviction faces a lifetime ban on the right to vote.

The late Murray Kempton used to tell me that he remembered, back in 1936, Alf Landon, campaigning against FDR and specifically Social Security, used to shout to the crowds words to the effect of "Mark my words, those Social Security numbers will follow you from cradle to grave." Landon was right about that. Today, you might as well have the SS number tattooed on your forehead, along with all other significant "private" data, preferably in some bright hue so the monitoring cameras along highways and intersections can get a specific hit. "Drill, baby, drill!" has been the war cry of the government's *data mining* programs for years now, and we can expect no improvement.

Fourth Amendment protections have gone steadily downhill. Warrantless wiretappers had a field day, and Congress reaffirmed their activities in the FISA bill, for which Obama voted, in a turn around from previous pledges. Vice president-elect, Joe Biden, can claim a significant role here since he has been an ardent prosecutor of the war on drugs, used since the Harrison Act of 1914 (and even

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approved, the project financed, and construction begun in 1975, without notifying the local population. Construction began without legal acquisition of the land supporting the construction works, a portion of the dam and hydroelectric generation facility, the reservoir, nor the farms needed to support evicted communities. Construction proceeded without a comprehensive census of affected people or a plan to address compensation, resettlement and alternative livelihoods for some 3,445 – mostly Mayan – residents, displaced by the dam and its reservoir or the additional 6,000 – mostly Mayan – households in surrounding communities. Civilian protest occurred when negotiations with authorities failed and petitions were submitted to the Guatemalan government and the Spanish Embassy. These complaints were interpreted by the military government as evidence of insurgent influence, and the army declared these "resistant communities" subversive. When construction was complete and the reservoir waters rose in January 1983, ten communities in the Chixoy River Basin had been destroyed by massacre. In Río Negro alone, some 444 of the 791 original inhabitants had been killed.

Earlier this year this nameless, numbered skull regained a sense of humanity: it is someone whose life, loves, and death has been described by surviving relatives in a Guatemalan courtroom. Some 26 years after death, the occupants of this mass grave were finally the subject of a court proceeding. On trial were six men from the Mayan village of Xococ, former members of the Xococ Civil Defense Patrol.

The facts of the case, as confirmed by witness testimony and exhumed remains, are as follows. On March 13, 1982, army officers and six members of the Xococ civilian patrol traveled to Río Negro, assembled the residents and took them to the "Portezuelo," a place called K'oxom in the hills above Río Negro, where they massacred 107 children and 70 women. Eighty-four survivors fled, some taking refuge in the community of Los Encuentros near Pueblo Viejo. Others took refuge in the community of Agua Fría. Eighteen children were kept as slaves for the civil patrollers.

The trial ended with a guilty verdict, sentencing five men (the sixth had died from diabetes complications during the trial) to the maximum penalty of 30 years. Their actions were ordered by Guatemalan army officers as part of state-authored policy of war against a civilian population. To date, no trial has been held in Guatemala for the officers of this or other genocidal events, though there is a case of genocide and other crimes against humanity proceeding through the Spanish courts, naming eight material authors of Guatemalan state-sponsored violence, including former dictator Rios Montt.

Impunity is a very tangible reality in Guatemala, and it is the rare day when crimes are acknowledged and some meaningful effort made to repair the damages that have been done. Of the 626 massacres reported by the Truth Commission in 1999, only three cases have been prosecuted. This point is underscored when considering the common use of death threats to repress social activism and the repeated targeting of journalists. Guatemala has one of the highest violent crime rates in the Western hemisphere and one of the lowest conviction rates. According to the Guatemala Human Rights Ombudsman (on 2006 data), convictions are obtained in approximately 6 per cent of all criminal cases, and for cases involving the murders of women and children, only 3 per cent.

This year has seen small, tentative steps that suggest the possible emergence of a new, stronger rule of law in Guatemala, with the conviction of the Xococ men

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earlier, in the 19th century, with the variable penalties attaching to opium, as used by middle-class whites or Chinese) to enhance the right of police to enter, terrorize and prosecute at will. Indeed, the war on drugs, revived by President Nixon and pursued vigorously by all subsequent administrations, has been as powerful a rationale for tearing the Constitution as the ensuing war on terror. It's like that with all wars. Not far from where I live in northern California, the war on drugs was the excuse for serious inroads in the early 1990s into the *Posse Comitatus* statutory inhibition on use of the U.S. military in domestic law enforcement – another constitutional disaster of the Bush years.

In the past eight years, Bush has ravaged the Fourth Amendment with steadfast diligence, starting with his insistence that he could issue arrest warrants if there was reason to believe a non-citizen was suspected of implication in terrorist activity. Seized under this pretext and held within America's borders or in some secret prison overseas, the captive had no recourse to a court of law. Simultaneously, the "probable cause" standard, theoretically disciplining the state's innate propensity to search and to seize has been systematically abused, as has the FBI's delirious use of the "material witness" statute to arrest and hold their suspects. Good-bye, habeas corpus.

Federalism and the rights of states have been relentlessly eroded, often amid liberal cheers at such excrescences as the No Child Left Behind law. Government's power to seize property under the canons of "eminent domain" received particular sinister buttress by the U.S. Supreme Court. Have there been any bright patches in the gloom in Bush time? I salute one: the vindication of the Second Amendment in the Supreme Court's majority decision, vigorously written by Justice Scalia. I've no need to tell you what liberals and leftists thought of that one. **CP**

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last spring and, more recently, with the November 20, 2008, accord signed by President Alvaro Colom Caballeros and the Coordinator of the Communities Affected by the Construction of the Chixoy Dam (COCAHICH). In this accord, the government acknowledges for the first time that "damages and violations" occurred during the Chixoy Dam's construction and it accepts the obligation to offer reparations, to continue to work with mediators from the Organization of American States (OAS) to verify the damages to families affected by the dam, and to design and implement a plan for their reparations.

While the government of Guatemala has stated a commitment to repair the socioeconomic damages from the first Chixoy Dam, it has also been actively soliciting construction bids for a new hydroelectric development, the Xalalá Dam that will flood upstream a 26-mile stretch of the Chixoy River and forcibly displace between 18 and 30 communities. The decision to site the project, request bids, and issue construction contracts – once again – occurred without completing an adequate environmental or social impact assessment.

Energy from the first Chixoy Dam sustains the capital city and is exported to foreign markets. Many displaced communities still lack electricity. The new dam is expected to generate energy to feed a grid that flows up to the United States, and to power the extractive industry in rural Guatemala (gold, silver, uranium, nickel mines and natural gas development). In the project area, communities met to consider the project and voted to reject the new dam and the related expansion of extractive industry.

On November 24, 2008, the government of Guatemala released the news that while nine international companies had shown initial interest in the project, only one submitted a letter to the Guatemalan government (Odebrecht, a Brazilian company, recently expelled from Ecuador when problems with its turbines and conduction tunnels caused the shutdown of its newly built dam). In their letter, Odebrecht reportedly explained that it would not be bidding on the project, citing community opposition to the dam as one of the reasons affecting its decision.

Upon receiving no bids from transnational companies on the Xalalá Dam project, the Guatemalan government announced that it will continue to seek financing from multilateral lending institutions such as the World Bank or the Inter-American Development Bank.

As I contemplate my desktop image, this exhumed and now reburied skull, I consider the promise and the disappointments that characterize the struggle to secure reparations. In Guatemala, reparations seem to mean the very rare day in court, or the modest plan to pay compensation. Small and tentative steps in the face of an ever-present and oppressive agenda seemingly bent on development and profit for a few, at the cost of lives, livelihoods, and ways of life of numerous others.

Over a million Guatemalans were displaced during the nation's internal conflict and, according to 2006 estimates, between 400,000 and 600,000 people were killed in a campaign of state-sponsored violence against a largely Mayan population.

The question is, will reparations in Guatemala ever mean "never again"? **CP**

Barbara Rose Johnston is an anthropologist and senior research fellow at the Center for Political Ecology. Her most recent book is *Waging War, Making Peace – Reparations and Human Rights* (Left Coast Press, 2008), co-edited with Susan Slyomovics. Johnston is also the primary author of the Chixoy Dam Legacy Issues Study (2005), a five-volume study that is the product of independent investigation accepted by the Guatemalan government and distributed by the American Association for the Advancement of Science's Human Rights Program. Copies of the study are available in Spanish and English at http://shr.aaas.org/guatemala/chixoy/chixoy.htm. She can be reached at bjohnston@igc.org.

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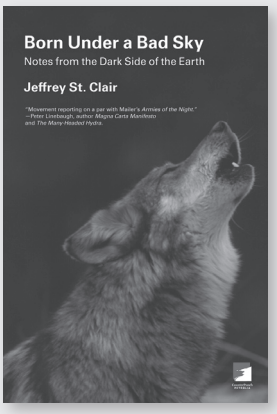

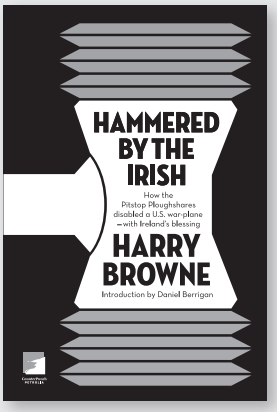
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Will You Continue To Ignore Gaza's Suffering, Mr Obama?

By Kathleen and Bill Christison

Palestine and Palestinian suffering have always taken a back seat in the world's attention while the world deals with wars and economic crises, while the attention of the compassionate is taken up by starvation and pestilence and war in Sudan or in Congo or Rwanda or Somalia. Throughout these crises – quite legitimate crises all – Palestine is always left to molder, sometimes at a more rapid pace in more inhumane circumstances than at other times.

Right now, the circumstances could not be more inhumane. Right now, the paramount Palestinian crisis is in Gaza, where Israel – with active political and ongoing financial backing from the United States – is blockading a tiny, horribly overcrowded piece of land and consciously depriving its 1.5 million people of *all* of the essentials of life: of food, of medicines, of equipment to keep hospitals running, of fuel for cooking, of fuel for producing electricity, of fuel for running generators, of fuel for automobiles, of spare parts for sewage treatment plants (so that plants break down and sewage pours into the streets and, in quantities in the millions of liters, into the Mediterranean), of clean fresh water.

You might want to believe, Mr. Obama, that this is all the Palestinians' own fault because they have been firing rockets into civilian areas of Israel and they deserve all the punishment they are receiving. But, in fact, Mr. Obama, if you were paying attention, and if you really cared, you would know that Israel started this latest round. Israel broke the four-month-old ceasefire on November 4, when an Israeli unit entered the Gaza Strip and attacked an area in the central Strip, claiming that Palestinians were digging a tunnel and intended to "kidnap" an Israeli soldier. When Hamas responded to this ceasefire violation with rockets, Israel imposed a total blockade on the already besieged territory and closed all entry and exit points.

That was over three weeks ago. Three weeks, in which Gaza's inhabitants have lived with dwindling food supplies, virtually no electricity, little heat as winter approaches, no medicines, no life. In those weeks, Israel has opened the border to one or two small food shipments, but this is like a drop in the ocean for a million and a half people already living in poverty. Within ten days of the Israeli closure, UNRWA, the United Nations refugee relief organization that provides food to Gaza's huge refugee population, had run out of food for the 750,000 people it regularly feeds. Two-thirds of Gaza's population are refugees who have already been living a miserable life in camps for over 60 years. Well over half of the total Gaza population are children.

"What is the worth of a civilization" that can turn aside from these horrors? This is a hard, hard judgment. But it fits. It fits your behavior, your silence.

The who-struck-John in this latest round is not what matters, Mr. Obama – not that it was Israel that broke the ceasefire, not that you and your Israel-supporting advisers might believe that the Palestinian response to the Israeli incursion should be counted, bullet for bullet, an "overreaction": multiple rockets in retaliation for one tiny little incursion. What matters is that this is collective punishment – punishing an entire civilian population for the actions of a few militants. What matters is that this is punishing people simply because they are Palestinians, non-Jews, intruding on Zionism's desire for exclusive Jewishness in Palestine. What matters is the scale of the oppression under which Palestinians live, thanks to Israel and to us, its U.S. enabler.

For this latest blockade is not the first, and it is not a new phenomenon in the long history of the Palestinian attempt to survive Israel's domination. The international embargo of Gaza, demanded by Israel and led by the United States, has been in effect for almost three years, since Hamas was democratically elected in January 2006 to head the Palestinian legislature and government. The blockade was further tightened in June 2007, when Hamas thwarted a U.S.-inspired coup attempt by its Palestinian rival Fatah and took over control of Gaza. But even these last three years in Gaza's troubled history are only a more severe version of the misery Gaza has been enduring for decades.

American economist Sara Roy, a student of Gaza's sufferings through the last several decades, long ago concluded that Israel's strategy throughout the occupation has been not simply to let Gaza's economy drift but rather to pursue a strategy of what she calls "de-development," ensuring that Gaza can develop no economic base at all, by actively depriving it of economic resources and the institutional development capabilities needed to create and sustain a thriving economy. Israeli journalist Amira Hass, another student of Gaza who lived there for several years in the 1990s, has written that even the Oslo peace process proved so oppressive in Gaza that it became synonymous "with mass internment and suffocating constriction."

(It is worthy of note, Mr. Obama, that both of these experts on Gaza are women, both are Jewish, and both are the daughters of Holocaust survivors. Both know far better whereof they speak and are far richer in compassion than all of the pro-Israel lobbyists among your advisers who have succeeded in tying your tongue.)

The result of these years and these various stages of enforced misery comes as no surprise. According to a recent report by the International Red Cross, there has been progressive deterioration in "food security," meaning the assured supply of enough nutritious food for a healthy life, for 70 per cent of Gaza's population. The dramatic fall in living standards caused by the international embargo has resulted in a widespread shift in diet from meats, fruit, and vegetables to foods including cereals and sugar, that are "alarmingly" deficient in iron and Vitamins A and D. What the Red Cross terms chronic malnutrition is steadily rising and will have long-term consequences. Forty per cent of the population is classified as "very poor," living on considerably less than $1 per day.

Several years ago, a woman in Norway

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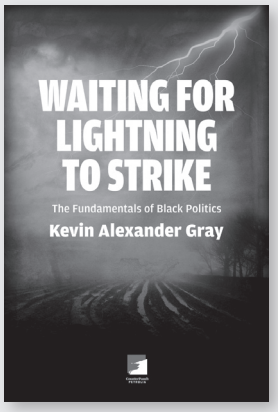
wrote us in response to an article about some other Israeli atrocity against the Palestinians, and we have had her plea posted over a computer ever since. "What is the worth of a civilization," she wondered, "that has no eyes and ears for the suffering and agony of the people under Israel's bombs?"

"*What is the worth of a civilization*" that can turn aside from these horrors? This is a hard, hard judgment. But it fits. It fits your behavior, your silence, Mr. Obama. In fact, much of the rest of civilization has finally begun to notice what is happening in Gaza – much too late, but anything is better than perpetual silence. The U.N. secretary general called for an end to the blockade of Gaza a few days ago; the president of the U.N. General Assembly has advocated a boycott and sanctions against Israel for its behavior; the EU parliament has taken note; various other international organizations – including the International Red Cross, the World Bank, the U.N. Human Rights Commission, and a large coalition of mostly British charitable organizations, among others – have expressed deep concern at the state of utter collapse in Gaza that is the direct result of the long-running embargo, imposed on Gaza by the United States and Israel. Mary Robinson, former president of Ireland and former U.N. High Commissioner for Human Rights, recently condemned the blockade after a visit to Gaza, calling the situation there ten times worse than when she last visited in 2001. Gazans have no hope, she said.

This is a U.S.-created, U.S.-supported humanitarian disaster, Mr. Obama. All it would take is a call by you for an immediate end to the blockade and embargo. The symbolic value of such a call, which would put meat on the bones of your talk about compassion and on your call for tearing down the walls between peoples, would be massive. The impact on Gazans would be beyond description. **CP**

Kathleen and Bill Christison have been writing on Palestine and traveling there for several years. Kathleen is the author of two books on the Palestinian situation and U.S. policy on the issue, while Bill has written numerous articles on U.S. foreign policies, mostly for *CounterPunch*. They have co-authored a book, forthcoming in mid-2009 from Pluto Press, on the Israeli occupation and its impact on Palestinians, with over 50 of their photographs. Thirty years ago, they were analysts for the CIA, but this is a part of their past that they would now prefer to forget. They can be reached at kb.christison@earthlink.net.



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